

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

MONADNOCK CONSTRUCTION, INC.,

Plaintiff,

Case No.: 16 CIV. 00420 (JBW)(VMS)
ECF Case

-against-

WESTCHESTER FIRE INSURANCE
COMPANY,

Defendant.

-----X

WESTCHESTER FIR INSURANCE
COMPANY,

Third-Party Plaintiff,

-against-

GLASSWALL, LLC, UGO COLOMBO, and
SARA JAYNE KENNEDY COLOMBO,

Third-Party Defendants.

-----X

**NOTICE OF CROSS-MOTION TO DISMISS
APPLICATION TO CONFIRM ARBITRATION AWARD**

PLEASE TAKE NOTICE that Glasswall, LLC, through its undersigned counsel, will move this Court, before the Honorable Vera M. Scanlon, United States Magistrate Judge, at the United States Courthouse, United States District Court, Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York, on a date and time to be designated by the Court, upon the Declaration of James P. Cinque, Esq., sworn to October 6, 2017, and the documents and

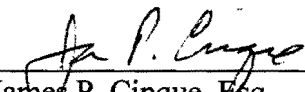
exhibits attached thereto, and the accompanying memorandum of law, and all prior pleadings and proceedings herein, for an Order pursuant to Federal Rule of Civil Procedure 12(b) dismissing plaintiff Monadnock's application to confirm the August 29, 2017 arbitration award upon the ground that Glasswall, LLC filed a petition to confirm the award on September 22, 2017 and served it on September 25, 2017, and therefore the state court has jurisdiction under the "first filed rule."

Pursuant to Local Civil Rule 6.1(b) answering papers are due October 20, 2017.

DATED: NEW YORK, NEW YORK
OCTOBER 6, 2017

Respectfully submitted,

CINQUE & CINQUE, P. C.

By: 
James P. Cinque, Esq.
Attorneys for Glasswall, LLC
845 Third Avenue, Suite 1400
New York, New York 10022
Telephone: (212) 759-5515
Telefax: (212) 759-7737
E-mail: CINQUE845@aol.com

TO: WACHTEL MISSRY LLP
Attorneys for Monadnock Construction, Inc.
885 Second Avenue
New York, New York 10017
Telephone: (212) 909-9500
Telefax: (212) 371-0320

COZEN & O'CONNOR
Attorneys for Westchester Fire Insurance Company
277 Park Avenue
New York, New York 10172
Telephone: (212) 883-4900
Telefax: (212) 986-0604